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# The Balance, AND COLUMBIAN REPOSITORY.

" HAIL SACRED POLITY, BY FREEDOM REAR'D !
" HAIL SACRED FREEDOM, WHEN BY LAW RESTRAIN'D !"
BEATTIE.

HUDSON, (NEW-YORK) TUESDAY, MARCH 5, 1805.

## Editorial.

" State facts, speak truth, and die martyrs."

### THE PRESS.

WE now give the concluſion of Mr. Hulbert's Speech in the Legiſlature of Maſſachuſetts, to which we ſubjoin the report of the committee to whom was referred the reſolution of Mr. Allen, &c.

MR. HULBERT, IN CONTINUATION.

One of the moſt ſerious charges, he ſaid, that had ever been brought againſt Mr. Jefferſon, was that of having paid the infamous Callender for writing that vile and deteſtable book intitled " *The Proſpect before us* ;"—a book containing the moſt bitter libels upon our beloved Waſhington, and other great and good men, and fraught with the moſt ſcandalous invectives againſt the Federal Adminiſtration of the Government, and againſt even the Conſtitution of the United States. Bold and ſhocking, he ſaid, as this accuſation might appear, it had the ſtrongeſt evidence to ſupport it. We have, ſays he, the declarations of Callender, that before he publiſhed the firſt volume of the " *Proſpect before us*," Mr. Jefferſon, having ſeen the proof ſheets of that book, and being pleaſed with their contents, ſent him a letter thanking him for the ſervice he was rendering his country, and informing him that he had directed Mr. George Jefferſon to pay him fifty dollars. In addition to this, Callender has declared, that when the firſt part of the ſecond volume of the " *Proſpect before us*," was publiſhed, Mr. Jefferſon ſent him, unſolicited, fifty dollars more. But, he ſaid, the declarations of Callender were not the only evidence we have in this caſe. The letters which Callender had received from Mr. Jefferſon on the ſubject of the " *Proſpect before us*" were depoſited by him in the hands of a gentleman, [Mr. Davis,] in Virginia, who was perfectly acquainted with the hand writing of Mr. Jefferſon, and that gentleman has declared that he is convinced beyond a doubt, that the letters were written by Mr. Jefferſon. Many other gentlemen who are familiarly acquainted with the hand writing of Mr. Jefferſon, have examined the letters, and are clearly of the ſame opinion. Mr. H. ſaid he did not heſitate to declare to this Houſe, that *he believed the charge to be true.*—He then aſked permiſſion to read from the " *Proſpect before us.*" And firſt ſays Mr. H. we will ſee what this man, paid by Mr. Jefferſon, ſays, on the Conſtitution of the United States :—

" The FEDERAL CONSTITUTION was crammed down the gullet of *America*. The longer we examine, the harder we find it to prove what *America* has gained by this government."

" Every Virginian who values his freedom, ſhould prepare himſelf to meet the worſt that may happen. He ſhould perfect himſelf in the uſe of the muſket with as much diligence as the devotee learns his catechiſm."

" Men of Virginia, this is the glorious government which draws from your pockets twenty five thouſand dollars per annum, beſides the net ſeven millions of dollars that we annually ſink on the price of your labor."

We will next ſee what he ſays of the late Federal Adminiſtration :—

" Under the old confederation, matters never were nor could have been ſo wretchedly conducted as under the ſucceſſive MONARCHS of *Braintree* and *Mount Vernon*. Take your choice between Adams, War and Beggary, and Jefferſon, Peace and Plenty."

Next, ſaid Mr. H. we will ſee, what he ſays of our illuſtrious and beloved Waſhington :

" For years together the *Grand Lama* of federal adoration, the immaculate Divinity of *Mount Vernon*, approved of and ſubſcribed every one of their [paper-jobbers] *blackeſt* meaſures."

" This ſpeech completely unmaſks the *ſcandalous hypocriſy* of Waſhington." ' Mr. Adams has only completed the *ſcene of ign...iny* which Mr. Waſhington began.' ' He could not have committed a more pure and net *violation of his oath.*' " By his own account he was twice a TRAITOR." " The extravagant popularity of this citizen reflects the utmoſt *ridicule* on the *diſcernment* of America." " He authoriſed the *robbery* and *ruin* of his own army."

And laſtly, ſaid Mr. H. not to tire the Houſe, he would read what this hireling ſays of the venerable ſage of Quincy :—

" This hoary-headed incendiary bawls out to arms !" Alas, he is not an object of envy, but of compaſſion and—of *horror !*"

" John Adams—that ſcourge, that ſcorn, that outcaſt of America."

" We have been governed by the moſt execrable of all SCOUNDRELS." " He is in private life one of the moſt *egregious fools* upon the continent."

" He (the future Hiſtorian) will inquire by what ſpecies of madneſs America ſubmitted to accept as her Preſident, a perſon *without abilities*, and *without virtue* ; a being alike incapable of attracting either tenderneſs or eſteem !"

" Are you ſolicitous, my friend, that your wife ſhould want a ſhirt to her back, &c. vote for the man of *Braintree ;* but if you are deſirous to live in peace and plenty, to keep your money for your own

purpoſes, then go—fly—and as you value ſoul and body, vote for the *Jefferſon* ticket!"

Theſe, ſaid Mr. H. are ſome of thoſe abominable libels for writing which, Mr. Jefferſon paid Callender one hundred dollars, and in open violation of the Conſtitution, remitted to that wretch a fine of two hundred dollars, inflicted upon him for vilely calumniating Mr. Adams. Let gentlemen, he ſaid, candidly conſider theſe things, and he truſted they would not again *compel* to inveſtigate the character of Mr. Jefferſon.

Will any member of this Houſe, he aſked, approve of the compliment which Mr. Jefferſon was lately pleaſed to beſtow upon the Gallick *Firſt Conſul?* Will it be pretended that France was then bleſſed with an "*enlightened government?*" He hoped not. It was then a government ſwimming in blood. It was adminiſtered by a man whoſe ambition was a peſtilence to the world;—one who had once ſolemnly ſwore *eternal hatred to monarchy and eternal love to republics*, and who notwithſtanding that oath, had demoliſhed every republic in Europe; and inſtead of dethroning a ſingle monarch, hadadded a Kingof Etruria to the liſt of crowned heads, and who then was vociferating liberty and equality with one foot mounting an imperial throne. Surely, ſaid he, ſuch a man did not deſerve a compliment from the Chief Magiſtrate of the *only* Republic remaining on earth.

Are, ſaid Mr H. the printers of the New-England Palladium to be deprived of important privileges, for having inſinuated that Mr. Gallatin, who is now at the head of the treaſury of the United States, oppoſed the collection of the public revenue, and fomented an inſurrection which coſt the general government a million of dollars? Is there a ſingle member of the Houſe, who does not, at this day, fully believe the charge? The official communications, he ſaid, which were made to Congreſs on the ſubject of the inſurrection, are convincing proof of the fact. The records of the whiſkey-inſurrection clubs will ſhew that Gallatin was their *Secretary!*—If gentlemen, he ſaid, wanted any further evidence on the ſubject, let them call on Duane. He has boldly publiſhed the fact—he has told the truth.

We are, continued Mr. H. officially informed that Louiſiana had been purchaſed by the Preſident and that the United States are bound to pay fifteen millions of dollars for the ſame. The friends he ſaid, of the preſent adminiſtration may ſay that this was a wiſe meaſure. But he could but declare that while he could diſcern but few benefits he thought he diſcovered many ſerious and laſting evils in that purchaſe. It was adding a vaſt extent of territory to a republic already too much extended. It had greatly increaſed the national debt, and extended to a very alarming degree of executive patronage. In a word, he conſidered Louiſiana as the *grave of the Union*.

It will be readily admitted, he ſaid, that it was a ſerious thing to charge the chief magiſtrate of our country with an affection for criminals convicted of enormous crimes. A ſubject like that ought to be treated with great candour. If Mr. Jefferſon's conduct toward Callender and Duane had not manifeſted an affection and regard for the blackeſt of criminals, he muſt conſcientiouſly declare that he knew of nothing that would.

That the United States are at preſent governned by an ariſtocratic *Junto*, under the influence and direction of Mr. Jefferſon was a fact, he ſaid, which was not merely inſinuated in the publication complained of, but which was loudly proclaimed in every part of the Union, by men who are now, or lately have been, in the councils of the nation, and who were no friends to the former adminiſtrations. It had been declared in Kentucky, by Mr. Davis, the gentleman who took much pleaſure in declaring that the "*ſun of federaliſm had ſet forever*," and who, when the ſun had ſet, found himſelf groping in darkneſs. The exiſtence of this Ariſtocratic Junto had been repeatedly publiſhed, and boldly reprobated, by Mr. Butler, of South Carolina, and Mr. Elliot, of Vermont; and we may add the teſtimony of Mr. Lyon.—That this charge was true, he ſaid, he had no doubt; and if true, it ought to be ſeriouſly conſidered.

He hoped that he ſhould be excuſed for having detained the houſe ſo long. He had only to add, that in his opinion, the Printers of the New-England Palladium inſtead of meriting cenſure for the publication mentioned in the reſolution on the table, were entitled to the eſteem not only of the houſe, but of all good and honeſt men.

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After a long and animated debate, in which the federaliſts contended for, and the democrats againſt, referring the reſolution to a ſelect committee, the reference was finally agreed to, and the committee made the following report:—

The Committee, to whom was referred the motion

"That the printers of the *New-England* "*Palladium*, having, ſince the com- "mencement of the preſent ſeſſion of this "General Court, publiſhed in their paper, "of Jan. 18, 1805, an indecent and li- "bellous publication againſt the perſonal "character of the Preſident of the *United* "*States*, under the title of "*The Monar-* "*chy of Federaliſm*," be no further em- "ployed as the Printers of this General "Court."

And to whom alſo was refered the petition of Young and Minns, on the ſubject of the ſaid motion beg leave to report:

That they have examined the publication entitled "*The Monarchy of Federaliſm*, and find that it contains ſeveral allegations, which are ſuppoſed to affect the character of Thomas Jefferson, Eſq. Preſident of the United States, individually, and in his official ſtation. They alſo find it contains ſtrictures and opinions on ſome meaſures of the National Government.

That purſuant to the prayer of ſaid petition, the committee have notified Young & Minns, who have appeared and offered a defence in writing, which is herewith ſubmitted.

That your committee are of opinion, that the preſervation of our Republican Conſtitutions, and the impartial and faithful adminiſtration of laws enacted in conformity to them, depend alone on the knowledge which the people may have of the *conduct*, *integrity* and *talents* of thoſe of their fellow-citizens, who have been, or who may be called to offices of truſt and honor; and that ſuch knowledge cannot he had without the free and unreſtrained Liberty of the Preſs.

That our political inſtitutions inſure to every citizen the right to from opinions for himſelf, and to "publiſh truth from good motives and for juſtifiable ends, although it reflect on Government, Magiſtrates, or Individuals;" provided always, that every abuſe of this right be cognizable by a Judiciary Tribunal, which ought in ſuch caſes to interfere and puniſh.

That in the opinion of your committee every citizen, who may have made a publication, which might be chargeable as libellous, has a right to a trial by jury; and that the law of England on the ſubject of libels, which holds, that the greater the truth is, the greater is the libel, is not the law of this land; and that this Honorable Houſe cannot know that to be "indecent and libellous," which might be capable of proof, and which, if true, ought to be known.

That this Honourable Houſe cannot try and decide upon the queſtion of truth or falſity, becauſe it cannot exerciſe any Judiciary Power.

That if this Honorable Houſe ſhould undertake to paſs affirmatively upon the aforeſaid motion, it would act in hoſtility to the proviſions of the conſtitution; and that ſuch act would deeply affect the Freedom of the Preſs; and your committee

believe that a precedent would be thereby eſtabliſhed which might lead to deplorable conſequences :

Becauſe, by ſuch an act, public opinion might be fixed without the fair inveſtigation eſſential to the developement of truths in which the community may be deeply intereſted :

Becauſe ſuch an act might diſcourage individuals from announcing facts, which it might be of high importance to the public to know :

Becauſe it might be conſtrued into an authority in this Honorable Houſe to cenſure and to puniſh in caſes not infringing on its own privileges :

Becauſe it would neceſſarily tend to confound the Legiſlative and Judiciary Branches of Government in the ſame body of men :

Becauſe, in the courſe of the changes and feelings incident to governments, the practice, under ſuch a precedent might reſult in the worſt of Deſpotiſm ; that which might be exerciſed by an aſſembly convened as a Legiſlature,

Your committee beg leave further to report, that the only connection exiſting between this Honorable Houſe and the Printers of the *New-England Palladium*, by which they are diſtinguiſhed from any other Printers in the State, ariſes out of a contract made by the Clerk of the Honorable Senate, and the Clerk of this Honourable Houſe, with thoſe Printers, to do the Commonwealth's printing for one year from the firſt day of July laſt paſt. And your committee are of opinion, that they have performed their engagements under that contract in a manner perfectly ſatisfactory to their employers.

For theſe conſiderations your committee reſpectully ſubmit the following Reſolution :

*Reſolved*, That this houſe cannot paſs any order or reſolve to cenſure or puniſh any individuals, except in caſes of the breach of its own privileges ; that YOUNG and MINNS, in making the aforeſaid publication, have not been guilty of any ſuch breach ; and that it is inexpedient to reſcind the contract made with YOUNG and MINNS for the preſent year.

All which is ſubmitted.

TIMOTHY JACKSON, pr. order.

Conſiderable debate aroſe on the motion to accept the above Report ; and taken by Yeas and Nays—and was decided in the affirmative.

YEAS 91.
NAYS 85.

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Thus ends the wicked attempt to ſhackle the preſs in Maſſachuſetts—an attempt which reflects diſgrace on its authors and abettors, and ſerves to ſhew how far democrats will carry their ſchemes of oppreſſion, when they believe themſelves ſufficiently powerful.

Unleſs the leading democrats contrive ſome method to keep the indiſcreet *young ones* in better order, all their projects muſt fail. In the preſent caſe, this young Mr. Allen, being wonderfully flattered by an election to the Aſſembly of Maſſachuſetts, felt an intolerable itch to diſtinguiſh himſelf. The reader has already ſeen what method he adopted to effect this object. He volunteered as the defender of Mr. Jefferſon's reputation ; and this too, in a popular aſſembly, where the liberty of ſpeech cannot well be reſtrained. The conſequence has been ſerious to Mr. Jefferſon. He has been ſet up to public veiw, a mark for the cutting ſarcaſms (couched in the terms of eulogium) of his indiſcreet friends, and the ſhafts of truth, wit and ſatire of his political opponents. Thoſe who have read and conſidered Mr. Hulbert's ſpeech can judge, how well calculated the preſident is, to ſtand the teſt of ſuch a ſcrutiny, and how thankful he muſt feel, to thoſe ſtupid advocates whoſe indiſcretion has expoſed him to it.

## Editor's Closet.

Parſon Griſwold, ſays, " Elevation tends to *bedizzen* the head of him who is exalted"—by which he means to be underſtood, that elevation is apt to render a perſon *dizzy*. If the parſon will turn to his dictionary, he will find that *to bedizzen* is a low term, which means, " *to dreſs out, to deck in contempt*"—a meaning totally different from that which he has attached to it. We mention this, leſt the error might appear in the parſon's new ſpelling-book, which is *bedizzened* with the name of the " Republican Spelling Book," and which has been puffed until its author is almoſt *dizzy*.

The democrats have a curious mode of getting over the charges that are publiſhed againſt Mr. Jefferſon, without denying them. They ſay, " they were never proved ;" or that " nothing new is charged." But with an evident intent to place Mr. Jefferſon beyond the reach of federal calumny, the *Salem Regiſter*, avers—

" We believe Mr. Jefferſon's character
" as good as that of any man of the age,
" and we are not inclined to make any ex-
" ceptions."

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We hereby offer a reward of *five cents* to any ingenious democrat, who will tranſlate into good Engliſh, the following article, copied verbatim from the *Salem Regiſter*, the only democratic paper of note in Maſſachuſetts, except the Boſton " *Democrat*," which the ſame Regiſter declares to be " one of the beſt papers in the ſtate."

" The defection of Pennſylvania is
" mentioned in one paper, and then the
" Editor of the Aurora becomes a Direc-
" tor in the Bank of that State in another.
" This is pretty work ſurely. What a
" progreſs this according to the noiſe made
" about it. What are we to think of a
" cauſe that has ſuch high recommenda-
" tions, eſpecially from ſuch inconſiſtent
" accounts as come from papers not pub-
" liſhed far from each other, and to be
" read by the ſame perſons. Is it not a
" clear caſe ?"

Oh, very clear—very clear, indeed !

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The editors of miſcellaneous papers, are very frequently impoſed on, by certain *literary cheats*, who *copy* pieces (generally of poetry) and ſend them for publication as *original*. This ſpecies of deception calls loudly for correction ; and we will gladly co-operate with our fellow editors in applying a remedy. At the ſame time, we ſhall always feel thankful to thoſe who ſelect productions of merit, and ſend them to the preſs, in the character of *ſelections*.

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The Editor of the Evening Poſt, introduces the account of the late attack on the preſs in Maſſachuſetts in form, thus :—

Commonwealth of Maſſachuſetts vs, Thomas Jefferſon. } On motion of Mr. Allen of counſel for Thomas Jefferſon, Preſident of the United States.

# Judge Chase.

[We know not the wishes of *all* our readers: But we are sensible that a considerable portion of them are desirous of seeing the admirable ANSWER AND PLEAS OF JUDGE CHASE published and preserved entire in the Balance. As this desire is seconded by our own feelings, we have concluded to devote from two to three pages of our paper weekly, to this highly important and interesting document, until the whole be published. The Husbandman, the Moralist, and the desultory reader, will, we trust, yield up their favorite columns for a few weeks, without a murmur, to the superior claims of patriotism.

Edit. Bal ]

*In the Senate of the United States,*

SITTING AS A

## High Court of Impeachment,

ON THE

*Fourth day of February, A. D.* 1805.

THE UNITED STATES *vs.* SAMUEL CHASE.

*The anſwer, and pleas of* Samuel Chase, *one of the Aſſociate Juſtices of the Supreme Court of the United States, to the articles of impeachment, exhibited againſt him in the ſaid Court, by the honorable, the Houſe of Repreſentatives of the United States, in ſupport of their impeachment, againſt him, for high crimes and miſdemeanors, ſuppoſed to have been by him committed.*

THIS reſpondent, in his proper perſon, comes into the ſaid court, and proteſting that there is no high crime or miſdemeanor particularly alledged in the ſaid articles of impeachment, to which he is or can be bound by law to make anſwer; and ſaving to himſelf now, and all times hereafter, all benefit of exception to the inſufficiency of the ſaid articles, and each of them, and to the defects therein appearing in point of law, or otherwiſe; and proteſting alſo, that he ought not to be injured in any manner, by any words, or by any want of form in this his anſwer; he ſubmits the following facts and obſervations by way of anſwer to the ſaid articles:—

The firſt article relates to his ſuppoſed miſconduct, in the trial of John Fries, for treaſon, before the Circuit Court of the United States, at Philadelphia, in April and May, 1800; and alledges that he preſided at that trial, and that "unmindful of the ſolemn duties of his office, and contrary to the ſacred obligation, by which he ſtood bound to diſcharge them faithfully, and impartially, and without reſpect to perſons," he did then, "in his judicial capacity, conduct himſelf in a manner highly arbitrary, oppreſſive, and unjuſt."

This general accuſation, too vague in itſelf for reply, is ſupported by three ſpecific charges of miſconduct.

1ſt. In delivering an opinion in writing, on the queſtion of law, on the conſtruction of which, the defence of the accuſed materially depended:" which opinion, it is alledged, tended "to prejudice the minds of the jury, againſt the caſe of the ſaid John Fries, the priſoner, before counſel had been heard in his favor."

2nd. "In reſtricting the counſel for the ſaid John Fries, from recurring to ſuch Engliſh authorities as they believed appoſite; or from citing certain ſtatutes of the United States, which they deemed illuſtrative of the poſitions, upon which they intended to reſt the defence of their client."

3rd. "In debarring the priſoner from his conſtitutional privilege of addreſſing the jury (through his counſel) on the law, as well as on the fact, which was to determine his guilt or innocence, and at the ſame time endeavouring to wreſt from the jury their indiſputable right to hear argument, and determine upon the queſtion of law, as well as the queſtion of fact, involved in the verdict, which they were required to give."

This firſt article then concludes, that, in conſequence of this irregular conduct of this reſpondent, "the ſaid John Fries was deprived of the right ſecured to him by the *eighth* article, amendatory of the Conſtitution; and was condemned to death, without having been heard, by counſel, in his defence."

By the eighth article amendatory to the conſtitution, this reſpondent ſuppoſes is meant the *ſixth* amendment to the conſtitution of the United States; which ſecures to the accuſed, in all criminal proſecutions, the right to have the aſſiſtance of counſel, for his defence.

In anſwer to theſe three charges, the reſpondent admits that the circuit court of the United States, for the diſtrict of Pennſylvania, was held at Philadelphia, in that diſtrict, in the month of April and May, in the year of our Lord, one thouſand eight hundred: at which court, John Fries, the perſon named in the ſaid firſt article, was brought to trial on an indictment for treaſon againſt the United States; and that this reſpondent then held a commiſſion, as one of the aſſociate juſtices of the ſupreme court of the United States; by virtue of which office, he did, purſuant to the laws of the United States, preſide, at the above-mentioned trial, and was aſſiſted therein by Richard Peters, Eſq. then, and ſtill diſtrict judge of the United States, for the diſtrict of Pennſylvania; who, as directed by the laws of the United States, ſat as aſſiſtant judge at the ſaid trial.

With reſpect to the opinion, which is alledged to have been delivered by this reſpondent, at the above-mentioned trial, he begs leave to lay before this honorable court, the true ſtate of that tranſaction, and to call its attention to ſome facts and conſiderations, by which his conduct on that ſubject will, he preſumes, be fully juſtified.

The conſtitution of the United States, in the third ſection of the third article, declares that "treaſon againſt the United States, ſhall conſiſt *only in levying war againſt them*, or adhering to their enemies, giving them aid and comfort."

By two acts of congreſs, the firſt paſſed on the third day of March, 1791, and the ſecond on the eighth day of May, 1792, a duty was impoſed on ſpirits, diſtilled within the United States, and on ſtills; and various proviſions were made for its collection.

In the year 1794, an inſurrection took place in four of the weſtern counties of Pennſylvania, with a view of reſiſting, and preventing by force the execution of theſe two ſtatutes; and at a circuit court of the United States, held at Philadelphia, for the diſtrict of Pennſylvania, in the month of April, in the year 1795, by William Patterſon, Eſq. then one of the aſſociate juſtices of the ſupreme court of the United States, and the above-mentioned Richard Peters, then diſtrict judge of the United States, for the diſtrict of Pennſylvania, two perſons who had been concerned in the above-named inſurrection, namely, Philip Vigol, and John Mitchell, were indicted for treaſon, of levying war againſt the United States, by reſiſting and preventing by force the execution of the two laſt mentioned acts of congreſs; and were, after a full and ſolemn trial, convicted on the indictments, and ſentenced to death. They were afterwards pardoned by George Waſhington, then preſident of the United States.

In the firſt of theſe trials, that of Vigol, the defence of the priſoner was conducted by very able counſel, one of whom, William Lewis, Eſq. is the ſame perſon who appeared as counſel for John Fries, in the trial now under conſideration. Neither that learned gentleman, nor his able colleague, then thought proper to raiſe the queſtion of law, "whether reſiſting and preventing by armed force, the execution of a particular law of the United States," be a "levying of war againſt the United States," according to the true meaning of the conſtitution? although a deciſion of this queſton in the negative, muſt have acquitted the priſoner. But in the next trial, that of Mitchell, this

queſtion was raiſed on the part of the priſoner, and was very fully and ably diſcuſſed by his counſel; and it was ſolemnly determined by the court, both the judges concurring, "that to reſiſt or prevent by armed force, the execution of a particular law of the United States, is a levying of war againſt the United States, and conſequently is treaſon, within the true meaning of the conſtitution." The deciſion, according to the beſt eſtabliſhed principles of our juriſprudence, became a precedent for all courts of equal or inferior juriſdiction; a precedent which, although not abſolutely obligatory, ought to be viewed with very great reſpect, eſpecially by the court in which it was made, and ought never to be departed from, but on the fulleſt and cleareſt conviction of its incorrectneſs.

On the 9th of July, 1798, an act of congreſs was paſſed, providing for a valuation of lands and dwelling-houſes, and an enumeration of ſlaves throughout the United States; and directing the appointment of commiſſioners and aſſeſſors for carrying it into execution: And on the fourth day of July, in the ſame year, a direct tax was laid by another act of congreſs of that date, on the lands, dwelling-houſes, and ſlaves, ſo to be valued and enumerated.

In the months of February and March, A. D. 1799, an inſurrection took place in the counties of Bucks and Northampton, in the State of Pennſylvania, for the purpoſe of reſiſting and preventing by force, the execution of the two laſt mentioned acts of congreſs, and particularly that for the valuation of lands and dwelling-houſes. John Fries, the perſon mentioned in the article of impeachment, now under conſideration, was apprehended and committed to priſon, as one of the ring-leaders of this inſurrection; and at a circuit court of the United States, held at Philadelphia, in and for the diſtrict of Pennſylvania, in the month of April, A. D. 1799, he was brought to trial for this offence, on an indictment for treaſon, by levying war againſt the United States, before James Iredell, Eſq. then one of the aſſociate juſtices of the ſupreme court of the United States, who preſided in the ſame circuit, according to law, and the above-mentioned Richard Peters, then diſtrict judge of the United States, for the State of Pennſylvania, who ſat in the ſaid circuit court as aſſiſtant judge.

In this trial, which was conducted with great ſolemnity, and occupied nine days, the priſoner was aſſiſted by William Lewis, and Alexander James Dallas, Eſqrs. two very able and eminent counſellors; the former of whom, William Lewis, is the perſon who aſſiſted as above-mentioned in conducting the defence of Vigol, on a ſimilar indictment. Theſe gentlemen, finding that the facts alledged were fully and undeniably proved, by a very minute and elaborate examination of witneſſes, thought proper to reſt the caſe of the priſoner, on the queſtion of law which had been determined in the caſes of Vigol and Mitchell, above-mentioned, and had then been acquieſced in, but which they thought proper again to raiſe. They contended, "that to reſiſt by force of arms a particular law of the United States, does not amount to levying war againſt the United States, within the true meaning of the conſtitution, and therefore it is not *treaſon*, but a *riot*." This queſtion they argued at great length, and with all the force of their learning and genius; and after a very full diſcuſſion at the bar, and the moſt mature deliberation by the court, the learned and excellent judge who then preſided, and who was no leſs diſtinguiſhed by his humanity, and tenderneſs towards perſons tried before him, than by his extenſive knowledge and great talents as a lawyer, pronounced the opinion of himſelf and his colleague, "that to reſiſt or prevent by force, the execution of a particular law of the United States, does amount to levying war againſt them, within the true meaning of the conſtitution, and does therefore conſtitute the crime of treaſon:" thereby adding the weight of another and more ſolemn deciſion, to the precedent which had been eſtabliſhed in the above-mentioned caſes of Vigol and Mitchell.

Under this opinion of the court on the queſtion of law, the jury, having no doubt as to the facts, found the ſaid John Fries guilty of treaſon, on the above-mentioned indictment. But a new trial was granted by the court, not by reaſon of any doubt, as to the correctneſs of the deciſion on the queſtion of law, but ſolely on the ground, as this reſpondent hath underſtood and believes, that one of the jurors of the petit jury, after he was ſummoned, but before he was ſworn on the trial had made ſome declarations unfavorable to the priſoner.

The yellow fever having appeared in Philadelphia, in the ſummer of the year 1799, the above-mentioned Richard Peters, then diſtrict judge of the United States for the diſtrict of Pennſylvania, did according to law appoint the next circuit court of that diſtrict to be held at Norris-Town therein. Purſuant to which appointment, a circuit court was held at Norris-Town aforeſaid, in and for the ſaid diſtrict, on the 11th day of October, in the laſt mentioned year, before Buſhrod Waſhington, Eſq. then one of the aſſociate juſtices of the ſupreme court of the United States, and the above-mentioned Richard Peters; at which court no proceedings were had, on the aforeſaid indictment againſt John Fries, becauſe, as this reſpondent hath been informed and believes the commiſſion of the marſhall of the ſaid diſtrict had expired, before he had ſummoned the jurors to attend at the ſaid court, and had not been renewed; by reaſon of which no legal pannel of jurors could be formed.

On the 11th day of April, A. D. 1800, and from that day until the 2nd day of May in ſame year, a circuit court of the United States was held at Philadilphia, in and for the diſtrict of Pennſylvania, before this reſpondent, then one of the aſſociate juſtices of the ſupreme court of the United States, and the above-mentioned Richard Peters, then diſtrict judge of the United States, for the diſtrict of Penſylvania. At this court, the indictment on which the ſaid John Fries had been convicted as above-mentioned, was quaſhed ex-officio by William Rawle, Eſq. then attorney of the United States, for the diſtrict of Pennſylvania, and a new indictment was by him preferred againſt the ſaid John Fries, for treaſon of levying war againſt the United States, by reſiſting and preventing by force, in the manner above ſet forth, the execution of the above-mentioned acts of congreſs, for the valuation of lands and dwelling-houſes, and the enumeration of ſlaves, and for levying and collecting a direct tax. This indictment, of which a true copy, marked exhibit No. 1, is herewith exhibited by this reſpondent, who prays that it may be taken as a part of this his anſwer, being found by the grand jury, on the 16th day of April, 1800, the ſaid John Fries was on the ſame day arraigned thereon, and plead not guilty. William Lewis, and Alexander James Dallas, Eſqrs. the ſame perſons who had conducted his defence at his former trial, were again at his requeſt aſſigned by the court as his counſel; and his trial was appointed to be had, on Tueſday the 22nd day of the laſt mentioned month of April.

After this indictment was found by the grand jury, this reſpondent conſidered it with great care and deliberation, and finding, from three overt acts of treaſon which it charged, that the queſtion of law ariſing from it, was the ſame queſtion which had already been decided twice in the ſame court, on ſolemn arguments and deliberations, and once in that very caſe, he conſidered the law as ſettled by thoſe deciſions, with the correctneſs of which on full conſideration he was entirely ſatisfied; and by the authority of which he ſhould have deemed himſelf bound, even had he regarded the queſtion as doubtful in itſelf. They are moreover in perfect conformity with the uniform tenor of deciſions in the courts of England and

Great Britain, from the revolution of 1688, to the prefent time, which, in his opinion, added greatly to their weight and authority.

And furely he need not urge to this honorable court, the correctnefs, the importance, and the abfolute neceffity of adhering to principles of law once eftabliſhed, and of conſidering the law as finally ſettled, after repeated and ſolemn deciſions by courts of competent juriſdiction. A contrary principle would unſettle the baſis of our whole ſyſtem of juriſprudence, hitherto our ſafeguard and our boaſt; would reduce the law of the land, and ſubject the rights of the citizen, to the arbitrary will, the paſſions, or the caprice of the judge in each particular caſe; and would ſubſtitute the varying opinions of various men, inſtead of that fixed, permanent rule, in which the very eſſence of law conſiſts. If this reſpondent erred in regarding this point as ſettled, by the repeated and ſolemn adjudications of his predeceſſors, in the ſame court and in the ſame caſe; if he erred in ſuppoſing, that a principle eſtabliſhed by two ſolemn deciſions was obligatory upon him, ſitting in the ſame court where thoſe deciſions had been made; if he erred in believing that it would be the higheſt preſumption in him, to ſet up his opinion and judgment over that of his colleague, who had twice decided the ſame queſtion, and of two of his predeceſſors, who juſtly rank among the ableſt judges that have ever adorned a court; if in all this he erred, it is an error of which he cannot be aſhamed, and which he truſts will not be deemed criminal in the eyes of this honorable court, of this country, or of that poſterity by which he, his accuſers, and his judges, muſt one day be judged.

Under the influence of theſe conſiderations, this reſpondent drew up an opinion on the law, ariſing from the overt acts ſtated in the ſaid indictment, which was conformable to the deciſions before given, as above-mentioned, and which he ſent to his colleague the ſaid Richard Peters, for his conſideration. That gentleman returned it to this reſpondent, with ſome amendments affecting the form only, but not in any manner touching the ſubſtance.

The opinion thus agreed to, this reſpondent thought it proper to communicate to the priſoner's counſel—ſeveral reaſons concurred in favor of this communication.

In the firſt place, this reſpondent conſidered himſelf and the court, as bound by the authority of the former deciſions; eſpecially the laſt of them, which was on the ſame caſe. He conſidered the law as ſettled, and had every reaſon to believe that his colleague viewed it in the ſame light. It was not ſuggeſted or underſtood that any new evidence was to be offered; and he knew that if any ſhould be offered, which could vary the caſe, it would render wholly inapplicable both the opinion and the former deciſions, on which it was founded. And he could not and did not ſuppoſe, that the priſoner's counſel would be deſirous of waſting very precious time, in addreſſing to the court an uſeleſs argument, on a point which that court held itſelf precluded from deciding in their favor. He therefore conceived that it would be rendering the counſel a ſervice and a favor, to appriſe them before hand of the view which the court had taken of the ſubject, ſo as to let them ſee in time, the neceſſity of endeavouring to produce new teſtimony which might vary the caſe, and take it out of the authority of former deciſions.

*Secondly.* There were more than one hundred cauſes then depending in the ſaid court, as appears by the exhibit marked No. 1, which this reſpondent prays may be taken as part of this, his anſwer. Many of thoſe cauſes had already been ſubjected to great delay, and it was the peculiar duty of this reſpondent, as preſiding judge, to take care, that as little time as poſſible ſhould be unneceſſarily conſumed, and that every convenient and proper diſpatch ſhould be given to the buſineſs of the citizens. He did believe, that an early communication of the court's opinion, might tend to the ſaving of time, and conſequently to the diſpatch of buſineſs.

*Thirdly.* As the court held itſelf bound by the former deciſions, and could not therefore alter its opinion in conſequence of any argument; and as it was the duty of the court to charge the jury on the law, in all caſes ſubmitted to their conſideration, he knew that this opinion muſt not only be made known at ſome period or other of the trial, but muſt at the end of the trial be expreſsly delivered to the jury by him, in a charge from the bench: and he could not ſuppoſe, and cannot yet imagine, that an opinion, which was to be thus ſolemnly given in charge to the jury, at the cloſe of the trial, could make any additional impreſſion upon their minds, from the circumſtance of its being intimated to the counſel before the trial began, in the hearing of thoſe who might be afterwards ſworn on the jury.

And laſtly, it was then his opinion, and ſtill is, that it is the duty of every court of this country, and was his duty on the trial now under conſideration, to guard the jury againſt erroneous impreſſions reſpecting the laws of the land. He well knows, that it is the right of juries, in criminal caſes, to give a general verdict for acquittal, which cannot be ſet aſide on account of its being contrary to law, and that hence reſults the power of juries, to decide on the law as well as on the facts in all criminal caſes. This power he holds to be a ſacred part of our legal privileges, which he never has attempted, and never will attempt to abridge or obſtruct. But he alſo knows, that in the exerciſe of this power, it is the duty of the jury to govern themſelves by the laws of the land, over which they have no diſpenſing power; and their right to expect and receive from the court, all the aſſiſtance which it can give, for rightly underſtanding the law. To withhold this aſſiſtance, in any manner whatever; to forbear to give it in that way, which may be moſt effectual for preſerving the jury from error and miſtake; would be an abandonment or forgetfulneſs of duty, which no judge could juſtify to his conſcience or to the laws. In this caſe, therefore, where the queſtion of law ariſing on the indictment, had been finally ſettled by authoritative deciſions, it was the duty of the court, and eſpecially of this reſpondent, as preſiding Judge, early to appriſe the counſel and the jury of theſe deciſions, and their effect, ſo as to ſave the former from the danger of making an improper attempt to miſlead the jury in a matter of law, and the jury from having their minds preoccupied by erroneous impreſſions.

*(To be Continued.)*

Be it our weekly task,
To note the paſſing tidings of the times.

## Hudson, *March 5.*

The academy at Hallowell, Diſtrict of Maine, was lately conſumed by fire, with all its apparatus, and the books of about 60 ſtudents.

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*Extract of a letter, from a friend of the Editor.*

"ALBANY, *February 26th*, 1805.

"You will recive herewith a copy of a bill *concerning libels*, which was introduced into the houſe of aſſembly yeſterday, by your highly reſpectable and truly worthy repreſentative, William W. Van Neſs, Eſq. What our *Solomons* in the legiſlature will do with this bill, time only will determine. However, I am inclined to think that it will paſs, without any great alteration.—That *Truth* ſhould be declared a *libel* in this boaſted land of liberty, is aſking too much. I care not how ſeverely *falſhood* is puniſhed; but that *truth*

ſhould be liable to undergo the ſame puniſhment as *falſhood*, is a diſgrace to our country."

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*Copy of the Bill, entitled,*

AN ACT CONCERNING LIBELS.

WHEREAS doubts exiſt whether, on the trial of an indictment or information for a libel, the jury have a right to give their verdict on the whole matter in iſſue:

*Be it therefore declared and enacted by the People of the State of New-York, repreſented in Senate and Aſſembly*, That on every ſuch indictment or information, the jury who ſhall try the ſame ſhall have a right to determine the law and the fact, under the direction of the court, in like manner as in other criminal caſes; and ſhall not be directed or required by the court or judge before whom ſuch indictment or information ſhall be tried, to find the defendent guilty merely on the proof of the publication by the defendant of the matter charged to be libellous, and of the ſenſe aſcribed thereto, in ſuch indictment or information: *Provided nevertheleſs*, That nothing herein contained ſhall be held or taken to impair or deſtroy the right and privilege of the defendant to apply to the court to have the judgment arreſted, as hath heretofore been practiſed.

*And be it further declared and enacted*, That in every proſecution for writing or publiſhing any libel, it ſhall be lawful for the defendant, upon the trial of the cauſe, to give in evidence in his defence the truth of the matter contained in the publication charged as libellous: *Provided always*, That ſuch evidence ſhall not be a juſtification, unleſs on the trial it ſhall be further made ſatisfactory to appear, that the matter charged as libellous was publiſhed with good motives and for juſtifiable ends.

*And be it further enacted*, That any perſon or perſons who ſhall, after the paſſing of this act, be convicted of writing or publiſhing a libel, ſuch perſon or perſons ſhall not be ſentenced to an impriſonment exceeding the term of

months, or to pay a fine exceeding the ſum of

*And be it further enacted*, That from and after the paſſing of this act it ſhall not be lawful to proſecute any perſon or perſons by information for writing or publiſhing any libel.

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The Senate have paſſed a bill providing for the territory of Orleans a territorial government, ſimilar, in moſt reſpects, to that in force for the Miſſiſippi territory, and providing for their admiſſion into the union ſo ſoon as their free white population ſhall amount to ſixty thouſand.

[*Evening Poſt.*]

*The Mint.*—The amount of the Coinage, at the Mint of the United States, in 1804, was as follows:—GOLD, 6,795 Eagles—30,475 Half Eagles—3,327 Quarter Eagles; total amount of Gold Coins, 258,642 Dollars, 50 Cents.—SILVER, 19,570 Dollars—156,519 Half Dollars—6,788 Quarter Dollars—8,265 Diſmes; total amount of Silver Coins, 100,340 Dollars, 50 Cents.—COPPER Coin, amounting to 12,844 Dollars, 94 Cents. Amount of all the Coins, 371,827 Dollars, 94 Cents.

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The New-York papers relate an inſtance of horrid barbarity, which has ſeldom been equalled in a country boaſting of civilization:—A poor black girl, owned by a man (or rather brute) at Brooklyn, had croſſed the ferry and was begging for food in the ſtreets of New-York. On examination it was diſcovered, that her maſter had cut off a part of one of her ears, and made a gaſh in the other, through which he had ſuſpended a large iron padlock! No key being at hand at the alms-houſe, by which the lock could be unfaſtened, it was taken off by cutting through the rim of the ear.

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During a late ſtorm, the tide roſe ſo high at Providence, R. I. as to ſet fire to ſeveral ſtores . . . . . *by coming in contact with a quantity of unſlaked lime!*

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By a late arrival at Norfolk from Cadiz, information is received, that the price of grain and flour has fallen conſiderably at that place, in conſequence of the receipt of large ſupplies.

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The U. S. brig Scourge has arrived at Norfolk from the Meditarranean.

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PHILADELPHIA, FEB. 23.

By letters received in this city from the Mediterranean, we learn, that a duel took place between Mr. Dehart, of New-Jerſey, and Mr. Nicholſon, of Maryland, both officers in the American ſquadron. The third fire proved fatal to Mr. Nicholſon. He was ſhot through the head, and died inſtantly.

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*Extract of a letter from an officer, an board the frigate Conſtitution, dated Syracuſe harbor, November, 9th, to his friend in this city, received by the John Adams.*

"We have had no intelligence lately from our priſoners in Tripoli: our laſt accounts left them in cloſe confinement. Naples is in poſſeſſion of the French, and the Royal family are at Palermo. The town of Almeria, in Spain, has been ſunk by an earthquake. Lord Nelſon is going to England on account of his ill ſtate of health, and, it is ſaid, is to be ſucceeded in the command by Sir John Orde. The Mediterranean is very quiet as to warlike operations: we are at preſent the only noiſy people in it. Our force will conſiſt of twenty gun-boats, 4 bomb veſſels, 5 frigates, 3 brigs, and 2 ſchooners, with which we ſhall renew the attack on Tripoli in the Spring, if the Baſhaw continues the war until that time, which we underſtand he is determined to do."

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*Extract of a letter from an officer on board one of the United States ſhips dated off Tripoli, October 6, 1804.*

"I embrace the opportunity of writing you by the John Adams, who goes home with the ſick and wounded of the fleet,—We have loſt ſeveral brave men here, among them are your friend John Wallcott and his Capt. We have taken five prizes, large ſhips, loaded with powder and ball, bound into Tripoli, all of which we have ſent into Malta, where they were condemned.—In the courſe of 12 days, we are to make a general attack, which, perhaps, will afford a ſubject for a larger letter. A few days ago took three of the Philadelphia's late crew, in one of the enemy's gun-boats, as they and a number more of them have turned Turks.—Ships here, Conſtellation, Conſtitution, Preſident, Congreſs, and Eſſex; brigs, Syren, Argus, and Vixen: ſch'rs, Experiment, and Enterprize."

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## The Knell.

At New-York, in the 54th year of his age, Doct. LOT TRIPP, a member of the respectable society of Friends, and an ornament to his profession and to humanity. His practice was confined principally to the poor and friendless, to whom he frequently adminiſtered relief without any other reward than that which arises from the "luxury of doing good." His life was an epitome of all the virtues and his death is ſincerely regretted by every one who knew him. [*Mer. Adv.*]

At Spencertown, on the 18th January, RHODA, in her fifteenth year, and on the 28th, WESLEY, in his fourteenth year, children of Mr. Daniel Leonard.

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☞ No alterations in the Prices Current at Hudson ſince our laſt.

## Wreath.

FOR THE BALANCE.

### ADDRESS TO MELANCHOLY.

DREAD melancholy! eldest child of woe,
To mental ease and cheerfulness a foe,
Come to my heart! and with thee let me live,
Sigh at thy call and in thy presence grieve,
Before thy shrine long, painful vigils keep,
And, taught by thy instructions, learn to weep.
Once, while at home my native soil I trod,
Lop'd the tall tree, or turn'd the fertile sod;
Jocund I toil'd and whistled o'er the plain,
Free from desire, anxiety or pain,
In ignorance and innocence my life
Pass'd quiet on and knew nor care, nor strife.
Then could I sing and unconcerned rove
The cultur'd fields, or wander in the greve;
Then with content unfeign'd and heart-felt joy,
Could taste delights, unmingled with alloy,
See bright'ning prospects hail each rising morn
And pluck enjoyment's rose, without a thorn.
But ah! those fairy dreams of bliss are o'er,
Dead are those joys, those prospects charm no more,
Tir'd of my life, I drag each tedious day
And wish and urge and drive the hours away—
Come then, sweet solace of the suff'ring mind,
Haste thine approach, nor linger still behind!
With thee I yet may dwell, from thee may know
How short, how vain is happiness, below.

ALCANDER.

## Improvement.

SPAFFORD'S CLOSE FIRE-PLACE.

IN the description of this fire-place, published in the 50th number of the 3rd Volume of the Balance, it was mentioned that it might be made wholly of iron, and set apart from the wall. We learn that the inventor has applied to this description, a stove for rooms, with a pipe. The ground plot is 19 inches square, (exclusive of a semicircular projection in the front.) The stove dimensions are: The jambs, 12 inches high, connected by a semi-circle—the radius 18 inches. The back, 12 inches perpendicular—the jambs at right angles herewith, 6 inches in height: from the front at the top of the jambs, a projection to the back on an angle of 22½ degrees, let fall to the point of interfection by a like angle from the jambs at the height of 6 inches. The front being continued perpendicular, and the jambs at the top forming a half mitre with the back, also perpendicular. The height behind 22 inches, shaped to the back, and covered with straight work on the top.

BALANCE.

## Diversity.

FROM THE TRENTON FEDERALIST.

### NEW SURROGATES!

IT is said the following occurrence lately took place in a neighboring county under the auspices of one of our newly appointed "Deputy Surrogate Generals."

A *Squire* of the *orthodox sect* wanted to take out letters of administration for the settlement of the *affairs* of a deceased relation. Circumstances, however, rendering his *personal* attendence on the "Deputy Surrogate General," for this purpose, rather inconvenient, he thought proper to authorize his *better-half*, by power of attorney, to accomplish the business. The good lady appeared before the newly made officer with her credentials, and, after giving the requisite security, *made oath that her spouse should faithfully perform the duties enjoined by law* in the undertaking. Upon this the "Deputy Surrogate General" issued the required letters of administration to her husband, and settled *all things in order*. This is the *first* time we ever heard of a person's making oath by *proxy*, but as every generation grows wiser and wiser, it may be set down as one of the *conveniences* as well as *improvements of the present age*.

A gentleman of Wilmington, (N.C.) being lately solicited by his neighbor to be his security to the Marshall, after reading the Bond, uttered in a faultering tone of voice. "*I am so sickly, and so poorly—so sickly, and poorly*, that I do not think I can write." Then taking up a pen, made an attempt to write his name on a piece of paper and tore it up. The other observed that he could write well enough, and prefled him to sign the Bond; to which he replied, "I am going to your wharf, to look at some lumber, but will be back again in the afternoon; in the mean time do try to get some one else to sign it with you; *I am so sickly—and so poorly*." The other still persisting in his solicitations, declared it was only a matter of form. "Oh! ho! *matter of form* do you say?" exclaimed the pretended sick man, "I had to pay Six Hundred Dollars for *matter of form* not long since, and shall have to pay Six Hundred more in a short time, *and I am so sickly—and so poorly:*" and marched off. [*Wilmington Gaz.*]

A very curious and valuable library, some time since, being on sale, among the rest, a manuscript law book was put up, the performance of a late eminent hand: To enhance the price, and stimulate the company to purchase it, the auctioneer, told them, that besides its originality, it had the additional advantage of an opinion concerning it, written in a blank leaf, by one of the most distinguished sages of the law, but he must beg to be excused the producing it, till after it should be sold: This took so well with the *literati*, that they advanced on one another at each bidding, till it was knocked down at a very considerable price, to one who was determined to have it at any rate, who when it was delivered to him, so eager was the expectation and impatience of the company to read the opinion, that the purchaser, for fear of being crowded to death, to his mortification, read these words:

Mem. I have carefully perused this book, and do pronounce it worth not one farthing. H.

[*Oxford Mag.*]


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